

Meeting Minutes

December 19, 2002 Prevailing Wage Advisory Committee

Attendees:

1. Prevailing Wage Business and Labor Committee Members. Kathleen Garrity (Associated Builders and Contractors), Roger Boatwright (Building Trades Council), Peter Coates (King County Building Trades), Rick Slunaker (Associated General Contractors)

2. Public Agency Participants. Chuck Moser (Grant County PUD), Jim Justin (Association of Washington Cities), Larry Schofield (WSDOT Highways and Local Programs), Jeff Carpenter, (WSDOT), Dave Mariano, (WSDOT).

3. L&I Staff. Rich Ervin, Jim Christensen, Cindy Hanson

4. Other Participants. John Dziedzic, Dick Springer, Miriam Israel Moses, Dave O'Meara, Philip Lindquist, Earl A. Smith, Dan Taylor, Paul Ingham, Troy Andrews, Ron Roberts, Tim Carey, Carl Hanson.

Agenda Item	Discussion	Action	Date Due
Opening remarks, Review and approve minutes from last meeting	<p>All meeting participants introduced themselves and who they represent.</p> <p>Jim Christensen announced that Jeff Carpenter would be representing WSDOT as Craig McDaniel has been reassigned to other duties. Dave Mariano has represented WSDOT in Craig's absence.</p> <p>Minutes of the last meeting were reviewed and a request made to have the 9/19/02 minutes reflect the discussion of establishing a statewide definition of contractor and to correct the spelling of Darren Konopaski's name.</p>	Correct minutes as suggested	1/08/03
Updates on Budget/FTE, Rules Development and Legislation and PWIA	<p>Rich announced that the prevailing wage fund has \$220,000.00 in reserve and that no further reductions in FTE's were anticipated at this time. Rich stated that the division is not making expenditures that are not required and that measures previously taken to reduce expenditures have been positive. Further, this past year there has been an increase in Intent/Affidavit filings from previous years.</p>	Provide Income and Expense Statement	<p>1/30/03 to Advisory voting members.</p> <p>3/20/03 to committee</p>

	<p><u>The committee requested that the department provide an income and expense statement, reflecting:</u></p> <ul style="list-style-type: none"> ?? collections from fees and penalties, ?? expenditures (to include FTE's funded by the prevailing wage account), ?? amount transferred to general fund, ?? summarize measures that were implemented to reduce expenditures; and, ?? outline activities the division may not be able to accomplish because of past reductions in FTE's. <p>In answer to a question about how much of the budget would be paid from Industrial Insurance funds, the committee was advised that the prevailing wage division is only funded through funds from the prevailing wage account.</p> <p>The committee was advised that the Governor's budget proposal results in the prevailing wage division losing five vacant FTE position. <u>The committee asked to be advised as to the classification and location of those five positions</u></p> <p>The PWIA application was discussed and the committee was advised that the department will be eliminating the digital certificate and change to a password protection system, with programming work to begin in March 2003.</p> <p>The number of contractors using the PWIA application continues to increase. In November 16.1 % of forms were filed using the PWIA</p>	<p>Provide classifications and locations for the five vacant FTE position lost as a result of the Governor's proposed Budget</p>	<p>1/30/03 to Advisory members</p>
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	<p>application.</p> <p>The committee discussed at length the need for field offices to be able to provide contractor's with computer services so that they can utilize the PWIA system, as well as obtain contractor registration and prevailing wage rate information. It was mentioned that some field offices have not had Intent/Affidavit forms available. <u>The department will ensure forms are available in all field offices.</u></p> <p>There was discussion regarding information that had been requested and provided by the department involving contractor registration and prevailing wage information. The information was provided as text documents and there was discussion as to whether or not the information could be supplied in a data base format. <u>Rich agreed to set up a meeting with the department's Information Services representative and the interested parties to see if this could be accomplished.</u></p>	<p>Set up a meeting with the Department's Information Services representative and interested parties regarding the sharing of information.</p>	<p>1/30/03</p>
<p>Update on Wage Survey Activity, legislative report (2304), Scope of Work rule changes, Modular construction, offsite prefabrication and erosion control issues.</p>	<p>Jim Christensen discussed current survey activity, providing the committee with a handout reflecting Prevailing Wage and Hour Surveys Completed and Planned 9/18/02. Jim will be revising the list to include the next round of surveys.</p> <p>Jim explained that the division is currently on track; although, we have some challenges due to the illness of Mike Johnson, Economic Analyst. The committee was unanimous in expressing their wishes to Mike for a full recovery and their appreciation of all the work that he has accomplished to date.</p> <p>Jim provided the committee with the Draft Prevailing Wage 2002</p>		

	<p>Legislative Assessment report (2304). Jim explained that due to the failure of Referendum 51, the report is not required by law to be submitted or implemented, that it is an assessment only, although it would become a public document. Committee members recommended that the department take this opportunity to include in the report answers to questions that were not asked, the department's position on certain survey methodology addressed in the report, language defending current law and included federal survey methodology.</p> <p>Upon request, Jim provided copies of the JLARC report referred to as Attachment B in the report.</p> <p>Rich recommended that any committee member or participant wishing to comment and provide input regarding the report do so prior to the end of first week in January. <u>Rich also advised that when the report is completed, it will be sent to the nine voting advisory committee members.</u></p> <p>Jim provided an update on Scope of Work rule changes, stating that he has met with internal groups within L&I and that meetings are being scheduled with external groups. Jim stated that he hoped to have his draft proposals completed by late summer. Jim clarified that work on changes to the rules is on an informal basis at this time and formal notification has not occurred with the Code Revisers office.</p> <p>Jim advised that the department is moving forward on a case involving erosion control and that an administrative hearing has been</p>		
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	<p>scheduled for March 2003.</p> <p>There was a brief discussion regarding modular construction and Jim was provided with a document that contained research on panelization as it relates to modular construction.</p> <p>There was a suggestion that the department may wish to add to the Draft Prevailing Wage 2002 Legislative Assessment report (2304) language addressing off site fabrication and potential scope of work issues.</p>		
<p>Posting requirements and enforcement action, Significant case review</p>	<p>Cindy clarified the posting requirements for Intents and that the department will take action on complaints, although, current law does not allow the department to penalize a contractor for posting violations, explaining that it would take legislative action in order for the department to penalize for a posting violation.</p> <p>Cindy briefly went over the Superior Asphalt & Concrete Co., et al, v. L&I case. L&I determined that truck drivers who participated in supplying road construction materials to public works project sites were entitled to prevailing wages when they made their delivers, as well as for loading, waiting, and driving time. On June 21 the Court of Appeals Division II ruled in favor of the department. Superior Asphalt has requested review by the Washington State Supreme Court. The department should hear whether or not the Supreme court will accept the case shortly. Cindy explained that a similar case involving Sea-Tac Airport's third runway project is currently at the Superior Court level. The case involves several trucking</p>		

	<p>companies hired to deliver fill material for the runway expansion. The Director's Order in this case affirmed the department's April 10 and May 8, 2000 Notices of Violation that employers are subject to the payment of prevailing wages to workers for time spent in travel, waiting, loading and delivering the fill material. The case has been appealed to Superior Court. Copies of the Superior Asphalt case and the Director's Order in the third runway case were provided.</p> <p>A copy of the Supreme Court decision involving Yellow Freight Systems was also provided and discussed briefly. The cases does not involve prevailing wages, but the department's Employment Standards regulation requiring workers be provided with a ten minute rest break after working no more than three hours. The court decided that employees have a private right of action to collect back wages when they did not receive a rest break. The court acknowledged that the rest break regulation can be both a condition of labor violation and a wage violation.</p>		
Open discussion, future agenda items or issues to be addressed	<p>A request was made for a legislative status report.</p> <p>The committee requested that the financial report (income and expense statement) be made available to committee members as soon as possible.</p> <p>Further discussion continued on the PWIA application and ways to make this application available for use by contractors at all of the department's field offices.</p> <p>Rich states that Budget, Legislation,</p>		

	Rule making, Scope of Work changes and any Significant case updates will be standing agenda items.		
Confirm dates and location for upcoming meeting.	There was discussion whether or not to hold the next meeting at the department's Tukwila Service location. It was agreed that the next meeting and all future meetings would be held in Tumwater. <u>The next meeting will be held in Tumwater, Room S119, March 20, 2003 from 1:00 PM – 4:00 PM.</u>		